

GENERAL COUNSEL'S REPORT

April 27, 2016

**Open Arms Care Corporation requests, for each of the following certificates of need, that the project cost(s) be increased by greater than 10%. There will be no additional construction costs; however, changes in the financing structure necessitate a higher estimated project cost.*

- B. Open Arms Care Corporation d/b/a Greeneville # 1 Chuckey Pike- Greeneville (Greene County), TN — CN1511-050A
The establishment of a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed site on a 2.72 acre lot on the east side of Chuckey Pike in Greeneville (Greene County), Tennessee, 37641. The estimated project cost is \$1,370,000.
- C. Open Arms Care Corporation d/b/a Hamilton County #2 Gamble Road - Georgetown (Hamilton County), TN — CN1511-051A
The establishment of a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed 1.5 acre site on the southwest quadrant of a 15.5 acre parcel (Parcel 061 045) currently being addressed as 7817 Gamble Road in Georgetown (Hamilton County), Tennessee 37336, approximately 0.1 mile east of the intersection of Gamble Road and Tennessee Highway 58. The estimated project cost is \$1,370,000.
- D. Open Arms Corporation d/b/a Greeneville # 3 East Church Street - Greeneville (Greene County), TN — CN1511-052A
The establishment of a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed site on a 1.37 acre lot on the east quadrant of a 2.74 acre parcel on East Church Street in Greeneville (Greene County), Tennessee, 37743. The estimated project cost is \$1,370,000.
- E. Open Arms Care Corporation d/b/a Hamilton County # 1 Gamble Road - Georgetown (Hamilton County), TN — CN1511-053A
The establishment of a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed 1.5 acre site on the southeast quadrant of a 15.5 acre parcel (Parcel 061 045) currently being addressed as 7817 Gamble Road in Georgetown (Hamilton County), Tennessee 37336, approximately 0.1 mile east of the intersection of Gamble Road and Tennessee Highway 58. The estimated project cost is \$1,370,000.
- F. Open Arms Care Corporation d/b/a Greeneville # 2 East Church Street - Greeneville (Greene County), TN — CN1511-054A
The establishment of a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed site on a 1.37 acre lot on the west quadrant of a 2.74 acre parcel on East Church Street in Greeneville (Greene County), Tennessee, 37743. The estimated project cost is \$1,370,000.
- G. Open Arms Corporation d/b/a Knox County #1 Bishops Bridge (Northeast), Knoxville (Knox County), TN — CN1512-062 A
To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed lot approximately 0.25 acres, in the northeast quadrant of a parcel of land which is 7.2 acres, currently being addressed as 1817 Bishops Bridge Road in Knoxville (Knox County), Tennessee 37922. The estimated project cost is \$1,370,000.

- H. Open Arms Corporation d/b/a Knox County #2 Bishops Bridge (Northwest), Knoxville (Knox County), TN — CN1512-063A

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed lot approximately 0.25 acres, in the northwest quadrant of a parcel of land which is 7.2 acres, currently being addressed as 1817 Bishops Bridge Road in Knoxville (Knox County), Tennessee 37922. The estimated project cost is \$1,370,000.

- I. Open Arms Care Corporation d/b/a Knox County #4 South Northshore Drive (Northwest), Knoxville (Knox County), TN — CN1512-064A

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on a 0.95 acre lot on the northwest half of a 1.91 acre parcel whose current address is 12629 South Northshore Drive in Knoxville (Knox County), Tennessee, 37922. The estimated project cost is \$1,370,000.

- J. Open Arms Care Corporation d/b/a Knox County #3 South Northshore Drive (Southeast), Knoxville (Knox County), TN — CN1512-065A

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on a 0.95 acre lot on the southeast half of a 1.91 acre parcel whose current address is 12629 South Northshore Drive in Knoxville (Knox County), Tennessee 37922. The estimated project cost is \$1,370,000.



March 29, 2016

Michael D. Brent
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VIA EMAIL & U.S. MAIL

Mr. Jim Christoffersen
Tennessee Health Services & Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, Tennessee 37243

Re: Open Arms Care Corporation d/b/a Greeneville #1 Chuckey Pike – CN1511-050A
Open Arms Care Corporation d/b/a Greeneville #2 East Church Street– CN1511-054A
Open Arms Care Corporation d/b/a Greeneville #3 East Church Street – CN1511-052A
Open Arms Care Corporation d/b/a Hamilton County #1 Gamble Road – CN1511-053A
Open Arms Care Corporation d/b/a Hamilton County #2 Gamble Road – CN1511-051A
Open Arms Care Corporation d/b/a Knox County #1 Bishops Bridge (Northeast)
–CN1512-062
Open Arms Care Corporation d/b/a Knox County #2 Bishops Bridge (Northwest)
–CN1512-063
Open Arms Care Corporation d/b/a Knox County #3 South Northshore Drive (Southeast)
– CN1512-065
Open Arms Care Corporation d/b/a Knox County #4 South Northshore Drive (Northwest)
– CN1512-064

Dear Jim:

As Melanie Hill may have mentioned to you after I discussed this issue with her yesterday, please place the above-referenced matters on the “General Counsel’s Agenda” for the April 27, 2016 meeting of the Health Services & Development Agency. Our requests will be identical for all nine projects. Even though these CONs were only recently approved, we need to request an increase in the project cost for each one. This is not due to an anticipated increase in the actual “hard costs” of the projects, but is due to the HSDA requirement that the project cost be based on the greater of the total acquisition, development and construction costs or the total rent payments over the life of the lease.

For each of these applications the estimated total acquisition, development and construction costs for the facility was and remains under \$900,000. However, as the applicant is using a lease structure instead of a direct mortgage financing structure, with an anticipated lease term of 15 years, at an anticipated rent of \$88,500 per year, that higher lease total (\$1,327,500) was used to determine the estimated project cost.

The Tennessee Department of Intellectual and Developmental Disabilities (DIDDs) has been working with all the applicants which are developing facilities to accept residents who will be discharged from Greene Valley Developmental Center (“GVDC”) when it closes pursuant to the terms of the court-ordered Exit Plan and DIDD’s Transition Plan (all as were outlined in the

Mr. Jim Christoffersen
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applications). While the Transition Plan (which was prepared before any CONs were approved) anticipates all remaining residents at GVDC will find other homes by June 30, 2016, the Exit Plan allows for an extension until June 30, 2017, if needed. However, at the urging of DIDDs, and in an effort to build the new Open Arms' facilities and accept GVDC residents as soon as possible, once the first 5 Open Arms' applications were approved in late February, representatives of Open Arms, the Landlord (a subsidiary of Woodbine Community Organization, or "WCO") and the Developer (Facilities Development Group, LLC or "FDG") began finalizing the financing and lease structure among those parties and Servis 1st Bank ("SFB"). Copies of commitment letters from SFB, the Option to Lease with WCO and the Development Agreement with FDG, among other documents, were included in the CON applications. While final documentation is still underway, the structure outlined in the CON applications was effectively finalized late last week, after the last 4 Open Arms' applications were approved.

As the lease and financing structure was finalized it was required that the term of the leases be 30 years, rather than 15 years in order to coincide with the final financing term of 30 years for these new facilities. While that does not have any effect on the actual construction and development cost of the facilities, it effectively doubles the project cost under the applicable rules. As this is more than a 10% increase, we understand that Open Arms will need to seek approval of the increases, and pay additional filing fees. Please confirm the amount of the additional filing fees and Open Arms will promptly remit it. My calculations show it will be \$2,987 per facility, or a total of \$26,883.

Please let me know if you would like to discuss, or need anything further at this time. We appreciate your assistance in this matter.

Very truly yours,

BRADLEY ARANT BOULT CUMMINGS LLP



Michael D. Brent

MDB/ced

cc: Ms. Melanie Hill (via email)
Mr. George Stevens (via email)
Mr. Richard Brown (via email)

STATE OF TENNESSEE
Health Services and Development Agency



Executive Director

Certificate of Need No. CN1511-050A is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Open Arms Care Corporation
6 Cadillac Drive, Suite 350
Brentwood, TN 37027

For: Open Arms Care Corporation d/b/a Greeneville # 1 Chuckey Pike

This Certificate is issued for: The establishment of a four (4) bed ICF/IID home.

On the premises located at: Unaddressed
Greenville (Greene County), TN 37743

For an estimated project cost of: \$1,370,000

The Expiration Date for this Certificate of Need is

April 1, 2018

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: February 23, 2016

D. Lynn Johnson
Chairman

Date Issued: March 22, 2016

Melanie M. Hill
Executive Director

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Health Services and Development Agency



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To: Open Arms Care Corporation
6 Cadillac Drive, Suite 350
Brentwood, TN 37027

For: Open Arms Care Corporation d/b/a Hamilton County #2 Gamble Road

This Certificate is issued for: The establishment of a four (4) bed ICF/IID home.

On the premises located at: 7817 Gamble Road
Georgetown (Hamilton County), TN 37336

For an estimated project cost of: \$1,370,000

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To: Open Arms Care Corporation
6 Cadillac Drive, Suite 350
Brentwood, TN 37027

For: Open Arms Corporation d/b/a Greeneville # 3 East Church Street

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Melinda Hill
Executive Director

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Brentwood, TN 37027

For: Open Arms Care Corporation d/b/a Greeneville # 2 East Church Street

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Greeneville (Greene County), TN 37743

For an estimated project cost of: \$1,370,000

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